

FCC Appeal of USAC Decision
STANTON COUNTY SCHOOL DISTRICT 452 – BEN 138176 – FY2017

April 26, 2018

Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Room TW-A325
Washington, DC 20554 *(submitted electronically via ECFS)*

Appeal – CC Docket Nos. 96-45 and 02-6

USAC Appeal Decision Date: February 26, 2018

Form 471Number: 171002748

Funding Request Number (FRN): 179904367

Funding Year: 2017

Billed Entity Name: STANTON COUNTY SCHOOL DISTRICT 452

BEN: 138176

Contact Information:

Contact Person Name: Donnie Morgan
Contact Person Phone: 620-492-6226
Contact Person E-Mail: dmorgan@usd452.org

Decision being appealed: USAC's Denial of our Appeal Dated February 26, 2017 – copy attached.

Text from USAC Denial Letter (SLD Denial Letter is included as Att 1)

"The FRN 1799004367 was denied during PIA review because Dark Fiber Lease was not requested on the FCC Form 470 and RFP that established the competitive bidding process for this FRN. Your appeal did not show that USAC's determination was incorrect. Consequently, your appeal is denied."

Background:

We are appealing USAC's denial of our FRN and our Appeal. The FRN in question provides a fiber connection between two of our schools and it has been in operation and has been funded by USAC since 2004. The denial in FY2017 was due to our confusion about the proper boxes to check on the Form 470. We understand that we were not alone in this confusion and we base this appeal on the fact that we made every effort to comply with SLD guidelines.

The SLD's instructions on how to fill out the Form 470 for FY2017 were very confusing. Our fiber link had been lit and operational for many years and we were simply trying to continue the operation by competitively bidding the service in accordance with SLD rules. We realize now – in hindsight – that we should have checked the box for Dark Fiber in addition to Lit Fiber but we maintain that in our situation it would not have had any effect. We are a rural district and the providers here are limited.

We feel that we have been the victim of a poorly designed bidding system (Form 470) and we are asking FCC to allow us to continue the operation of our fiber services with SLD funding.

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Summary and Requested Action: We request that FCC grant us a waiver on our Form 470 issue and direct USAC to re-evaluate our application based on the merits of this appeal. The denial of this FRN presents a severe financial hardship on our district and that is surely not the intent of the program. We appreciate your time and consideration.

Sincerely,

(filed electronically via SLD website)

Dr. Volora Hanzlicek, SWPRSC (South West Plains Regional Service Center)

K - 16 Senior Leadership Consultant

Telephone: 785-285-0611

volora.hanzlicek@swplains.org

Included below:

Att 1: USAC's RFCDL - Denial of Appeal dated February 26, 2018

Att 2: Stanton Appeal to USAC

(submitted electronically via ECFS)

FCC Appeal Att 1: USAC Denial of Appeal

BEN	BEN Name	Post-Commitment Request Type	Post-Commitment Application/Request Number	FRN	Post-Commitment Decision (FRN Level)	Post-Commitment Rationale (FRN Level)	Original FRN Funding Decision	Revised FRN Funding Decision
138176	STANTON COUNTY SCHOOL DIST 452	Appeals	69273	1799004367	Denied	<p>The FRN 1799004367 was denied during PIA review because Dark Fiber Lease was not requested on the FCC Form 470 and RFP that established the competitive bidding process for this FRN. Your appeal did not show that USAC's determination was incorrect. Consequently, your appeal is denied.</p> <p>FCC rules require that all products and services for which an applicant requests discounts on an FCC Form 471 must be competitively bid on an FCC Form 470. The FCC Form 470 must include a complete description of the services for which discounts are sought, be posted on the website for 28 days, and applicants must carefully consider all bids received before selecting a vendor, entering into a legally binding agreement or signing a contract, and signing and submitting an FCC Form 471. See 47 C.F.R. secs. 54.503(b) and (c), 54.511(a). These competitive bidding requirements help to ensure that applicants receive the lowest pre-discount price from vendors. See Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Order on Reconsideration, 12 FCC Rcd 10095, 10098, FCC 97-246 para. 9 (rel. Jul. 10, 1997). To the extent an applicant seeks construction of a network that the applicant will own, the applicant must also solicit bids for both the services provided over third-party networks and construction of applicant-owned network facilities, in the same request for proposals. Similarly, to the extent an applicant seeks bids for special construction associated with dark fiber or bids to lease and light dark fiber, the applicant must also solicit bids to provide the needed services over lit fiber. Additionally, to the extent an applicant seeks bids for equipment and maintenance costs associated with lighting dark fiber, the applicant must include these elements in the same FCC Form 470 as the dark fiber. See C.F.R. secs. 54.503 (c) (iv)-(vi).</p>	Denied	Denied

[Records](#) / [Appeals](#)

Connection between Building FRN 1799004367 - #69273

[Summary](#) [Associated FRNs](#) [News](#) [Related Actions](#)

In-Review

Outreach

Wave Ready

Committed

Appeal Information

[View Status \(-\)](#)

Status USAC issued a revised funding decision on 02/26/2018. Check your Newsfeed for the decision.

Funding Year 2017

Submitting Organization [STANTON COUNTY SCHOOL DIST 452 \(BEN: 138176\)](#)

Created By Donnie Morgan

Created On 9/21/2017 2:33 PM EDT

Main Contact

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Narrative

Attached is the letter I submitted to Ying Hong on July 25, 2017 after ansering mulitple review inquires and phone conversations. The last I was aware before receiving the denial is that all was OK and would be approved.

This is the same connection we have had since August 2004 in which it has been funded ever since.

Appeal Details

Decision appealed by applicant

If you wish to modify or cancel your appeal, or, if you have any questions about your appeal, please contact the E-rate Program's Client Service Bureau (CSB) at (888) 203-8100.